

has neglected to obtain insurance coverage or to make other arrangements, the matter shall be processed as a Foreign Claims Act or a Military Claims Act claim if appropriate, and any award will be paid from non-appropriated-funds.

## PART 757—AFFIRMATIVE CLAIMS REGULATIONS

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AUTHORITY: 5 U.S.C. 301; 10 U.S.C. 939, 5013, and 5148; E.O. 11476, 3 CFR, 1969 Comp., p. 132; 32 CFR 700.206 and 700.1202.

SOURCE: 57 FR 5072, Feb. 12, 1992, unless otherwise noted.

### Subpart A—Property Damage Claims

#### § 757.1 Scope of subpart A.

Subpart A describes how to assert, administer, and collect claims for damage to or loss or destruction of Government property through negligence or wrongful acts.

#### § 757.2 Statutory authority.

(a) *General.* With the exception of MCRA claims, all affirmative claims for money or property in favor of the United States shall be processed in accordance with the Federal Claims Collection Act (31 U.S.C. 3711). Depart-

ment of Defense Directive 5515.11<sup>1</sup> of 10 December 1966 delegates to the Secretary of the Navy, and designees, the authority granted to the Secretary of Defense under the Federal Claims Collection Act.

(b) *Statute of limitations.* There is a 3-year statute of limitations on affirmative Government tort claims pursuant to 28 U.S.C. 2415(b).

#### § 757.3 Regulatory authority.

The regulations published in 4 CFR chapter II control the collection and settlement of affirmative claims. This section supplements the material contained in those regulations. Where this section conflicts with the materials and procedure published in 4 CFR chapter II, the latter controls.

#### § 757.4 Claims that may be collected.

(a) *Against responsible third parties for damage to government property, or the property of nonappropriated-fund activities.* It should be noted, however, that as a general rule, the Government does not seek payment from servicemembers and Government employees for damages caused by their simple negligence. Exceptions to this general policy will be made when the incident involves aggravating circumstances.

(b) *For medical costs from third party payers in accordance with 10 U.S.C. 1095.* These claims are asserted and collected by the medical treatment facilities under the coordination of benefits program.

(c) *For money paid or reimbursed by the government for damage to a rental car in accordance with the Joint Federal Travel Regulations (volume 1, paragraph U 3415-C and volume 2, paragraph C 2101-2).* Collection action shall be taken against third parties liable in tort. Collection action shall not be taken against Government personnel who rented the vehicle.

(d) *Other claims.* Any other claim for money or property in favor of the United States cognizable under the

<sup>1</sup>Copies may be obtained if needed, from the Commanding Officer, U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.